

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

**TYLER DIVISION**

**DATE:** May 24, 2011

**JUDGE**  
LEONARD DAVIS

**REPORTER:** Shea Sloan

**LAW CLERKS:** Andrea Houston

|                                 |                               |
|---------------------------------|-------------------------------|
| <b>JUXTACOMM-TEXAS SOFTWARE</b> | <b>CIVIL ACTION NO:</b>       |
| <b>V</b>                        | <b>6:10-CV-11</b>             |
| <b>AXWAY, INC., ET AL.</b>      | <b>MARKMAN HEARING</b>        |
| <b>ATTORNEYS FOR PLAINTIFFS</b> | <b>ATTORNEY FOR DEFENDANT</b> |
| <b>SEE SIGN-IN SHEETS</b>       |                               |

On this day, came the parties by their attorneys and the following proceedings were had:

**OPEN:** 1:35 pm

**ADJOURN:** 3:08 pm

| <b>TIME:</b> | <b>MINUTES:</b>  |
|--------------|--|
| 1:35 pm      | Case called. Parties announced ready. See Sign-In Sheet.   |
|              | The Court addressed the parties and discussed all the pending motions. He asked what the status in on these motions.   |
|              | Parties responded and discussed motions.   |
|              | The Court denied Motion to Stay, #529. We will proceed to the markman now.   |
| 1:45 pm      | Mr. Oczek responded and presented proposed terms "script processor and rule set processor". The Court discussed definition with parties.   |
| 1:53 pm      | Mr. O'Neil responded and presented plaintiff's proposed definition of "script processor" and "rule set processor". The Court further discussed definition with Mr. O'Neil.   |
|              | The Court inquired as to why these terms are important to the case.  |
|              | Mr. Oczek responded and discussed the importance of terms. Mr. O'Neil responded and gave his points as to the importance. Mr. Oczek stated plaintiff could make a stipulation on the record. Mr. O'Neil responded. They would like the Court to stick by what he has already done. Concerns are not resolved. Parties continue arguments on terms. |

**DAVID J. MALAND, CLERK**

**FILED: 5.24.2011**

BY: Mechele Morris, Courtroom Deputy

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| <b>TIME:</b> | <b>MINUTES:</b>  |
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|              | With representation on the record, plaintiff made proposal on the record on terms. Mr. Occek responded. This is the definition that defendants have proposed.  |
|              | The Court will take a closer look and this but it looks as if plaintiff has taken up defendants proposal.  |
| 2:08 pm      | Mr. O'Neil began presentation on proposed term "system interface".   |
|              | Mr. Steadman presented proposed term "system interface" on behalf of defendants. Mr. O'Neil further responded and argued term. Parties disagree on what the "system interface" does. Mr. Occek further responded. Mr. O'Neil further responded.  |
|              | The Court asked if the court were to agree with defendant, what would happen to the case? Mr. Steadman responded. The Court asked about validity. Mr. Occek responded.   |
|              | The Court asked about the other defendants about what would happen with this case. Mr. Davis responded. Ms. Race responded. Mr. Mitchell responded. Mr. Houston responded. Mr. Bauer responded. He address validity. Mr. O'Neil gave his idea of what would happen to this case. Mr. Steadman further responded to this point. |
| 2:28 pm      | The Court will move on to "logical import data interface".   |
|              | Mr. O'Neil presented term "logical import data interface/logical export data interface".   |
|              | Mr. Occek responded and presented term on behalf of the defendant. Mr. O'Neil further responded.   |
|              | The Court stated this is his short list that he wanted to get into. We have 30 more minutes. Parties can get into what they would like to further discuss.   |
|              | Mr. O'Neil would like to discuss "executable code" if nothing else.  |
|              | Mr. Donnally presented term "executable code" on behalf of the defendant. Mr. Mitchell responded and stated they are joining in as well. Mr. Donnally began argument on term. The Court asked about the term "means". Mr. Donnally responded.  |
|              | Mr. O'Neil responded and presented proposed term "code/software" claim. Mr. Davis responded. Mr. O'Neil further discussed the preamble. Mr. Davis responded and further discussed why this and preamble effects the case. Mr. O'Neil further responded. Discussion made on "distribution system" regarding the preamble.       |
|              | The Court asked what is next.  |
|              | Mr. Houston presented proposed term "script" and the previous Markman Order's opinion.   |
|              | The Court stated they way he normally does his opinions. Parties respond. This clears up term.   |
| 2:54 pm      | Mr. Occek presented proposed term "data bag". Discussion made on the changes that are necessary on previous construction.  |
|              | Mr. O'Neil responded and presented plaintiff's proposed term "data bag". He would like to stick with the Court's prior construction.   |

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| TIME:   | MINUTES:  |
|---------|---|
|         | Mr. Occek further responded and argued term.  |
|         | Mr. Donnally would like to discuss one other term <b>“utilizing metadata from the metadata database”</b> . He presented proposed term on behalf of the defendant. |
|         | Mr. O’Neil responded and presented proposed term on behalf of the plaintiff.  |
|         | Mr. Bauer asked if the Court will enter an Order on Motion to Stay and if it will be with or without prejudice.   |
|         | The Court stated it was denied with prejudice. The Court asked about mediation and asked who the mediator is.   |
|         | Mr. Macon stated Judge Faulkner is mediator. The parties are still working on mediating.  |
|         | The Court asked parties to meet and confer on pending motion and get back with the Court. Within 10 days, give him a joint report as to the status.               |
| 3:08 pm | There being nothing further, Court is adjourned.  |